

Remarks

Entry of the foregoing amendments and reconsideration of this application are respectfully requested in view of the following remarks.

Allowable Subject Matter

The Applicants appreciate the Examiner's indication of allowable subject matter in claims 42-46, 48, and 51.

The Claims Overcome The Claim Objections

Claims 42 and 52 have been amended to recite "said axis" rather than "the axis." The Applicants do not believe that such amendments are required for patentability and reserve the right to appeal the patentability of the claims prior to the amendments should the Examiner not enter the amendments.

Claim 47 Complies With The Written Description Requirement

Claim 47 was rejected as under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. It appears that the Examiner intended to reject claim 56 on similar grounds. The Examiner has taken the position that the recitation in claim 47 that the second material (the second section is composed of the second material) is softer than the first material (the first section is composed of the first material) is new matter. The Applicants respectfully disagree with the Examiner.

The specification as filed clearly indicates that one section of the stent is composed of a first material and a second section is composed of a second material different than the first material. The specification as filed also very clearly indicates that one of the materials may be softer than the other material. For the Examiner's convenience, listed below is a sample (a subset) of the many portions of the specification as filed that contain the idea that one portion of the stent is softer than another portion of the stent (or that one material that forms a portion of the stent is softer than another material that forms another portion of the stent).

1. "The present invention relates to medical stents and related methods. More specifically, the invention relates to medical stents having one section which is softer than a section at the other end of the stent." Page 1, lines 2-4.

2. "The first section 24 includes a first material having a first durometer. The second section 20 includes a second material having a second durometer, which is greater than the first durometer value. Accordingly, the first section is "softer" than the second section." Page 8, lines 8-11.

3. "Even if these materials are mixed, the fact that one EVA type has a durometer value less than the second EVA type can mean that the section of the stent formed from the first type of EVA is "softer" than the section of the stent formed from the second type of EVA." Page 9, lines 24-27.

5. "The first section 224 includes a first material having a first durometer. The second section 220 includes a second material having a second durometer, which is greater than the first durometer value. Accordingly, the first section is "softer" than the second section. The transition section 215 includes both the first and second materials, and the first and second materials are separate, distinct, and associated in an unsymmetrical, irregular configuration."

Page 12, lines 25-28.

6. "Various embodiments of medical stents according to the invention can have any of a variety of features. A dual durometer stent that incorporates a higher durometer value material (for example, firm EVA) for the renal coil and that gradually transitions into a lower durometer value material (for example, soft EVA) for the bladder coil is useful. For example, the "hard" material can be EVA having a durometer value of about 80 to about 95 on a Shore A scale, preferably about 87 to about 95 on a Shore A scale, and more preferably about 90 on a Shore A scale, and the "soft" material can be another type of EVA having a durometer value of about 70 to about 90 on a Shore A scale, preferably about 78 to about 90 on a Shore A scale, and more preferably about 86 on a Shore A scale. These values are examples of a more general principle, namely, having a stent with a harder end and a softer end." Page 16, lines 3-13.

Accordingly, the Applicants respectfully submit that the idea of the second material being softer than the first was included in the specification as filed and is thus not new matter. Thus, the Applicants request that the Examiner withdraw the rejection of claim 47 (and claim 56) under 35 U.S.C. 112. If the Examiner continues to believe, after reviewing the specification, including the above cited portions of the specification, that the idea of the second material being softer is new matter, the Examiner is requested to call the undersigned at the number provided below.

Claim Rejections

Claims 52-55 and 57-59 were rejected under 35 U.S.C. 102(b) as being anticipated by the publication entitled “Ureteral Stents and Ureteral Catheters” (the Publication). Without acquiescing that the Publication is prior art under 35 U.S.C. 102(b) against the present application, the Applicants respectfully submit that the Publication does not disclose each and every limitation of independent claim 52.

Independent claim 52 recites a medical stent that includes a “coil of the first retention portion coiling about an axis . . . the medial portion extending along and substantially coaxial with said axis.” The Applicants respectfully note that the Publication does not disclose such a medical stent. Specifically, the Publication (including Figure 2, which was identified by the Examiner) does not disclose a medial portion that extends along and substantially coaxial with the axis about which the coil of the first retention member coils. In other words, the medial portion of the medial device disclosed in Figure 2 of the Publication may extend alongside or parallel to (and not coaxial with) the axis about which the end portion coils. Accordingly, as the Publication does not disclose each and every limitation of independent claim 52, the Applicants respectfully request that the Examiner withdraw the rejection of independent claim 52 and claims 53-55 and 57-59 (all of which depend from independent claim 52).

It is respectfully submitted that the present application is now in condition for allowance.

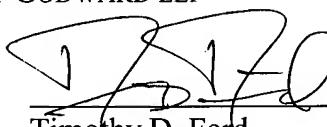
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

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